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FLETCHER, HEALD & HILDRETH

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

TITONKA TELEPHONE COMPANY,
THE BURT TELEPHONE COMPANY

Petition for Waiver of Sections 51.917(b)(1)
and 51.917(b)(7) of the Communications
Rules to Modify 2011 Base Period Revenue
in Connection with the Merger of Affiliated
Study Areas in Iowa.

ACCEPTED/FILED

FEB - 9 2018

Federal Communications Commission
Office of the Secretary

DOCKET FILE COPY ORIGINAL

To: Chief, Wireline Competition Bureau

PETITION FOR WAIVER

Titonka Telephone Company ("Titonka") and The Burt Telephone Company ("Burt Telephone") (collectively, "Petitioners"), by their undersigned attorneys, and pursuant to Section 1.3 of the Commission's Rules,¹ hereby request a waiver of Sections 51.914(b)(1) and 51.917(b)(7) to recalculate for merged study areas the 2011 Intestate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine Connect America Fund – Inter-carrier Compensation ("CAF-ICC") support.² A waiver of Section 51.909(a) is not being requested because the study areas involved in this Petition are currently assigned to the same switched access rate bands, and therefore, a waiver of Section 51.909(a) is unnecessary. A study area waiver is also not being requested as such waiver is not required when commonly-owned affiliated companies are consolidating existing study areas in the same state. Grant of the requested waivers is required by the National Exchange Carrier Association

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. §§ 51.917(b)(1), (b)(7).

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to enable Petitioners to merge Burt Telephone's study area into Titonka's study area, which is planned to be effective July 1, 2018.

I. BACKGROUND

Titonka and Burt Telephone are incumbent local exchange carriers with headquarters located at 247 Main Street North, Titonka, Iowa 50480. In 1984, Titonka purchased Burt Telephone, which became a wholly-owned subsidiary of Titonka. The two companies operated adjacent study areas in Iowa together using the same personnel and equipment. On May 23, 2003, Titonka and Burt Telephone filed a joint application with the Iowa Utilities Board ("IUB") to amend their certificates of public convenience and necessity to reflect changes to their service exchanges. Specifically, Titonka's board of directors determined that it would be in the best interest of both companies to dissolve Burt Telephone and operate as a single corporation. The IUB approved Titonka and Burt Telephone's application on June 20, 2003,³ and Burt Telephone adopted articles of dissolution and transferred all of its customers and assets to Titonka. The combined companies operate under the name Titonka-Burt Communications. Although the companies operate under a single company name, and Burt Telephone does not have any customers, operations, or assets as they were all transferred to Titonka as part of the transaction approved by the IUB in 2003, the study areas for Titonka (study area code 351510) and Burt Telephone (study area code 351114) have remained separate.

Titonka's board of directors has decided that the company should now formally combine the two study area. A study area waiver is not required to merge the two areas because the FCC has previously ruled that no study area waiver is required when commonly-owned affiliated

³ *In Re: Titonka Tel. Co. & the Burt Tel. Co.*, IUB Docket Nos. SPU-03-9, 2003 WL 24091760 (June 20, 2003).

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companies are consolidating existing study areas in the same state.⁴ The study areas are in the same rate bands for switched access service set forth in National Exchange Carrier Association ("NECA") Tariff F.C.C. No. 5, and therefore, no waiver is required under Section 51.909(a).⁵ However, waivers are required to recalculate for the merged study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine CAF-ICC support. Accordingly, Petitioners seek waivers of the following FCC rules:

- Section 51.917(b)(1) to combine the 2011 Interstate Access Switched Access Revenue Requirements for the merged study areas into a consolidated 2011 Interstate Access Switched Access Revenue Requirement; and
- Section 51.917(b)(7) to combine the 2011 Rate-of-Return Base Period Revenues for the merged study areas into a single 2011 Rate-of-Return Base Period Revenue amount for the merged study area.

II. DISCUSSION

A. Waiver Standard

The standard for waiver of the FCC's rules is familiar. The Commission's rules may be waived for good cause shown.⁶ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁷ In addition, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an

⁴ See *Request for Clarification Filed by the National Exchange Carrier Association, Inc., and Petitions for Waivers Filed by Alaska Telephone Company, Ducor Telephone Company, and Kingsgate Telephone, Inc., Concerning the Definition of "Study Area" in the Part 36 Appendix-Glossary of the Commission's Rules*, Memorandum Opinion and Order, 11 FCC Rcd. 8156, 8160 (1996).

⁵ 47 C.F.R. § 51.909(a).

⁶ 47 C.F.R. § 1.3.

⁷ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

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individual basis.⁸ Such a waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁹ As demonstrated below, these requirements are met for the requested waiver.

B. There is Good Cause for the FCC to Grant the Requested Waivers

As further detailed below, good cause exists for the requested waivers because the combined study areas will not result in any change to the rate band placements for the Titonka or Burt Telephone study areas in NECA Tariff No. 5. Furthermore, the 2011 Interstate Switched Access Revenue Requirements and Rate-of-Return Carrier Base Period Revenues for the merged study areas will not have an adverse impact on the CAF-ICC mechanism.

1. Rate Band Placement Would Not Change as a Result of the Proposed Study Area Merger.

The proposed study area merger will not have any impact on the current access rate bands. Titonka study area, SAC 351510, and Burt Telephone study area (SAC 351114) are both currently in rate band 8 for local switching and dedicated transport, and rate band 2 for tandem switching. Those rate bands will not change as a result of the proposed transaction, and therefore, there will be no impact at all on switched access revenues. Because there will be no change in rate bands before and after the study area consolidation, no waiver of Section 51.909(a) is required.

⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁹ *Northeast Cellular*, 897 F.2d at 1166.

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2. Recalculation of the 2011 Interstate Switched Access Revenue Requirement and Base Period Revenue will not Adversely Impact CAF-ICC.

NECA has performed calculations to determine the expected CAF-ICC support resulting from the combined study area for the test period 2017/2018. A copy of the results of those calculations are set forth in Exhibit A, attached hereto. As shown that exhibit, the revisions of the Titonka and Burt Telephone study areas will not change the 2011 Interstate Switched Access Revenue Requirements and Rate of Return Carrier Base Period Revenues for the reconfigured study areas. Specifically, Access Recovery Charges will remain unchanged, and therefore, will not impact the CAF-ICC mechanism or end users. Furthermore, NECA projections show that the combined study area would have no impact on the CAF-ICC. Once the FCC directs that the merged company can use the sum of the frozen baseline for the two study areas, there will not be any change in the total amount of CAF-ICC support received for the combined study areas. The CAF-ICC support will be the sum of the two study areas shown in the last two tables in Exhibit A. Accordingly, the proposed transaction will not have any adversely impact on the CAF-ICC support mechanism.

C. Grant of the Waivers is in the Public Interest.

Grant of the requested waivers to effectuate the proposed merger of the Titonka and Burt Telephone study areas is consistent with the FCC's determination that the consolidation of existing study areas in the same state that are under common ownership do not require any special Commission intervention or rulings.¹⁰ Furthermore, the public interest is served by the increased administrative and operational efficiencies by consolidating the subject study areas because the company would no longer be required to maintain separate books and other

¹⁰ See n.4 *supra*.

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operations for two distinct study areas. Grant of the requested waiver will allow Titonka to fully implement the merger of Burt Telephone operations into Titonka, and realize the full benefits of consolidating the operations of both companies under one entity. Accordingly, grant of the requested waivers is in the public interest.

III. CONCLUSION

Wherefore, for the foregoing reasons, Titonka and Burt Telephone request that the Commission grant waivers of Sections 51.917(b)(1) and 51.917(b)(7) of the Communications rules to recalculate for merged study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine CAF-ICC support, and such other relief as required and necessary in the public interest, to enable the consolidation to be effective July 1, 2018.

Respectfully submitted,

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Dated: February 9, 2018

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EXHIBIT A

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Test Period 2017/2018 (Data are based on Input provided by company in the CAF ICC Data Collection)

Interstate

srld	RRQ	CurrentEORate	ProposedEO Rate	Current Composite Rate	ProjectedMin	ProCurentRev	TermLSMin	TermRevCurrent	TermRevPro	ProjectedRev	AllocatedR ev	InterER
351310		\$0.005000	\$0.003567	\$0.071888								
351114		\$0.005000	\$0.003567	\$0.056431								
Combined		\$0.005000	\$0.003567	\$0.066181								

Intrastate

srld	YRIActualRev	RRQ	TPForecastedM In	TPExpRev	TPIntrastateER
351310					
351114					
Combined					

CMRS

srld	YRI_NetRecipCompR ev	TP_NetExpRecipCo mpRev	RRQ	CMRS_ER
351310				
351114				
Combined				

Non_CMRS

srld	YRI_NetRecipCompR ev	TP_NetExpRecipCo mpRev	RRQ	CMRS_ER
351310				
351114				
Combined				

Exogenous Costs (not available for Average Schedule Company)

srld	TRS_Increment	Reg_Fees_Increm ent	NANPA_Increm ent	Total
351310				
351114				
Combined				

ARC Rate and Revenue

srld	Res Lines	SLB Lines	MLB Lines	Res_ARC Rev	SLB_ARC Rev	MLB_ARC Rev	Total ARC Rev	RESARCRate	SLBARCRate	MLBARCRate
351310								\$2.00	\$3.00	\$3.00
351114								\$2.00	\$3.00	\$3.00
Combined								\$2.00	\$3.00	\$3.00

Net Impact of True-Up, Pre and Post ER and CAFICC


srld	ER_pretrueup	RESARC_pretrueu p	SLBARC_pretru eup	MLBARC_pretru ueup	TotalARC_pretru ueup	CAFICC_pretru eup	Net Impact_True Up	ER	RESARC	SLBARC	MLBARC	TotalARC Rev	CAFICC
351310													
351114													
Combined													

Revised CAF ICC Support Reduced by Imputed ARC Revenues on Broadband-only Lines

srld	CAFICC	Broadband-only Lines	Imputed ARC Revenues	Revised CAF ICC Support
351310				
351114				
Combined				

CERTIFICATION

I, Aaron McCartan, hereby certify under penalty of perjury that I am the General Manager of Titonka-Burt Communications; that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.



Aaron McCartan
General Manager
Titonka-Burt Communications

8 February, 2018

Date